

119 FERC ¶ 61,276
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
Sudeen G. Kelly, Marc Spitzer,
Philip D. Moeller, and Jon Wellinghoff.

Dominion Cove Point LNG, LP

Docket Nos. CP05-130-004
CP05-132-003

Dominion Transmission, Inc.

Docket No. CP05-131-003

ORDER DISMISSING REQUESTS FOR REHEARING

(Issued June 13, 2007)

1. In this order, the Commission dismisses requests of the Maryland Office of Peoples' Counsel (Maryland Peoples' Counsel) and KeySpan Delivery Companies (KeySpan) for rehearing of the Commission's order denying rehearing issued in this proceeding on January 4, 2007 (January 4 Order).¹ Rehearing of an order on rehearing lies only when the order on rehearing modifies the result reached in the original order in a manner that gives rise to a wholly new objection.² In cases where the rehearing order modifies the results of the earlier order in a significant way, a second request for rehearing is, in fact, required as a prerequisite for judicial review.³ However, while Maryland Peoples' Counsel asserts that the January 4 Order significantly modified the Commission's June 16, 2006 Order in this proceeding (June 16 Order) in two respects and KeySpan claims that the January 4 Order mischaracterizes its pleadings seeking rehearing of the earlier order, as is discussed below, neither Maryland Peoples' Counsel

¹ *Dominion Cove Point LNG, LP*, 118 FERC ¶ 61,007 (2007).

² *Southern Natural Gas Co. v. FERC*, 877 F.2d 1066, 1073 (D.C. Cir. 1989).

³ See *California Department of Water Resources v. FERC*, 306 F.3d 1121, 1125 (D.C. Cir. 2002); *Town of Norwood, Massachusetts v. FERC*, 906 F.2d 772, 775 (D.C. Cir. 1990).

nor KeySpan has shown that the January 4 Order changed the June 16 Order in such a manner that further rehearing would lie.⁴

Background

2. This proceeding commenced when on April 15, 2005, Dominion Cove Point LNG, LP (Cove Point LNG) and Dominion Transmission, Inc. (Dominion) filed applications in the captioned dockets to construct and operate facilities which comprise the Cove Point Expansion Project. This project includes: (a) the expansion of the existing Cove Point LNG Terminal to increase the volumes of LNG that can be imported, stored, regasified, and delivered; (b) the expansion of the capacity of Cove Point LNG's pipeline, the Cove Point Pipeline; and (c) Dominion's construction of new downstream pipeline and expanded storage facilities to provide enhanced access to firm natural gas storage capabilities and to additional natural gas markets throughout the northeastern United States.

June 16 Order

3. On June 16, 2006, the Commission issued an order⁵ granting Cove Point and Dominion the authorizations necessary to construct and operate the Cove Point Expansion Project. The June 16 Order addressed a number of parties' concerns regarding the prospect of increased deliveries of regasified LNG from Cove Point LNG's expanded facilities and Dominion's downstream pipeline. Foremost among these concerns was Washington Gas Light Company's (WGL) claim that the unusually high number of gas leaks on a portion of its system that receives regasified LNG from the Cove Point LNG Terminal is attributable to the effects of regasified LNG on the seals in its pipeline couplings. WGL contended that the Commission should not authorize the Cove Point Expansion Project until Cove Point LNG demonstrated that it had minimized the potential adverse impacts to WGL's infrastructure that would result from the proposed expansion's increased deliveries of regasified LNG. Further, WGL urged the

⁴ The January 4 Order denied, in part, and granted, in part, the requests for rehearing of the June 16 Order. However, KeySpan's and Maryland Peoples' Counsel's instant rehearing requests pertain to portions of the January 4 Order that denied rehearing requests. The January 4 Order granted rehearing on certain issues that have no relation to the issues raised then or now by KeySpan or Maryland Peoples' Counsel, *e.g.*, Cove Point LNG's and Statoil Natural Gas, LLC's (Statoil) filing of revenue information in a NGA section 4 proceeding; Dominion's requirement to track fuel used at each compressor; and environmental condition no. 22 regarding the Juniata River crossing.

⁵ *Dominion Cove Point LNG, LP*, 115 FERC ¶ 61,337 (2006).

Commission to include conditions ensuring against increased leaks in any certificates authorizing the Cove Point Expansion Project.

4. The Commission concluded in the June 16 Order that WGL's contention that regasified LNG caused the increased leaks on its system was based on a flawed analysis. The Commission determined instead that "it is clear that any shrinkage due to [exposure to regasified LNG] was small, particularly when compared to other contributing factors, . . . and would not have caused any increase in leak rates on WGL's system in the absence of those other more significant contributing factors."⁶ The Commission determined that those other factors, namely the application of hot tar to the seals as a means of corrosion control, the increase in operating pressures on WGL's system, and colder temperatures, were primarily responsible for the leaks of which WGL complained. Consequently, the Commission determined that WGL's claims provided no basis to deny the authorizations requested for the Cove Point Expansion Project.

5. In addition, the Commission stated in the June 16 Order that "[c]onsistent with the Policy Statement [on Provisions Governing Gas Quality and Interchangeability in Interstate Natural Gas Company Tariffs], Cove Point LNG must ensure that the regasified LNG it delivers to interconnecting pipelines meets the gas quality and interchangeability standards of the interconnecting pipelines' tariffs."⁷ The Commission also noted that the regasified LNG that currently is delivered to the Cove Point Pipeline meets the gas quality and interchangeability standards of the Cove Point Pipeline and WGL, and that Cove Point LNG will hold expansion shippers to its existing gas quality standards. Therefore, the Commission stated that absent WGL's claims of increased leaks, Cove Point LNG's proposal appeared to raise no issues of adverse impact to existing customers arising from the quality of regasified LNG being delivered, or to be delivered, from the Cove Point LNG Terminal.

The January 4 Order

6. The January 4 Order addressed seven parties' requests for rehearing of the June 16 Order.⁸ As is relevant here, those rehearing requests raised issues related to: (a) the Commission's analysis and treatment of the claimed adverse effects of the regasified

⁶ *Id.* at P 73.

⁷ *Id.* at P 53.

⁸ These parties include WGL, Statoil, Public Service Commission of the State of Maryland, Public Service Company of North Carolina, Inc., KeySpan, Cove Point LNG, and Dominion. Maryland Peoples' Counsel did not seek rehearing of the June 16 Order.

LNG, both on WGL's system and on third parties, (b) cost responsibility for necessary remedial measures, and (c) whether the Commission approved the Cove Point Expansion Project without regard to the safety implications of introducing expanded quantities of regasified LNG into WGL's system and beyond.

7. WGL claimed the June 16 Order failed to impose conditions that would ensure that WGL and other local distribution companies (LDCs) will be able safely to serve their customers, resulting in WGL being unfairly forced to bear a disproportionate share of the burdens associated with the proposed expansion, contrary to Commission precedent. WGL pointed to two instances in which WGL contends the Commission imposed appropriate conditions to address concerns regarding the effects of regasified LNG from the Cove Point LNG facilities. In the first instance, in response to concerns of certain customers, including WGL, regarding the interchangeability of LNG with domestic natural gas when Cove Point LNG's facilities were originally constructed in the 1970s, the Commission required that Columbia Gas Transmission Corporation (Columbia)⁹ reimburse the LDCs for costs related to appropriate remedial action that the LDCs took to accommodate the LNG.¹⁰ In the second instance, WGL's renewed concerns over the interchangeability of LNG during the 2003 reactivation of the Cove Point LNG Terminal¹¹ were addressed through a settlement that required Dominion Cover Point to implement certain gas quality standards in its tariff.¹² In addition, WGL asserted that the Commission's June 15, 2006 Gas Quality and Interchangeability Policy Statement (Policy Statement)¹³ states that, when evaluating individual applications for LNG facilities, the Commission will consider adverse impacts, compensation for negative impacts, and mitigation.¹⁴

⁹ Columbia owned the Cove Point LNG facilities at that time.

¹⁰ See *Columbia, Opinion No. 101, Opinion and Order Affirming Initial Decision*, 13 FERC ¶ 61,102 at 61,219 (1980). (In this case, it was determined that the least costly means of accommodating the LNG was for the LDCs to make the necessary adjustments to their systems. The Commission then concluded that requiring all Columbia's sales customers to share the LDCs' costs was necessary to render the pipeline's jurisdictional sale for resale rates not unduly discriminatory.)

¹¹ *Cove Point LNG Limited Partnership*, 98 FERC ¶ 61,270 (2002).

¹² *Cove Point LNG Limited Partnership*, 102 FERC ¶ 61,227 (2003).

¹³ *Policy Statement on Provisions Governing Natural Gas Quality and Interchangeability in Interstate Natural Gas Pipeline Company Tariffs*, 115 FERC ¶ 61,325 (2006).

¹⁴ *Id.* at P 47.

8. In the January 4 Order, the Commission distinguished the cases relied on by WGL from the circumstances in the present proceeding. The Commission explained that the first case involved Columbia's decision to introduce regasified LNG into its system for the first time in order to meet its bundled sales service obligations, thereby causing certain customers to incur costs in adapting their systems to accommodate the new supplies. However, the Commission stated that in today's unbundled marketplace, pipelines no longer purchase the gas that they deliver. Instead, shippers purchase the gas from suppliers that are not the pipeline, and the gas is owned and tendered to the pipeline by the shippers. Therefore, pipelines must rely on the gas quality specifications in their tariffs to exercise control over the gas entering their systems.

9. The second case involved the 2002 reactivation of Cove Point's LNG Terminal. In that proceeding, Cove Point LNG agreed, in a settlement with its customers, including WGL, to implement gas quality specifications that are among the most stringent in the industry. The Commission observed that Cove Point LNG is not proposing in this proceeding to change the gas quality specifications WGL agreed to, and that these gas quality specifications will remain unchanged. Moreover, the Commission stated that:

“[r]egardless of whether regasified LNG was the original cause of WGL's ills (and such is not the case, as determined in the June 16 order and reaffirmed here), there is no explanation as to why WGL's system is not ready today. WGL has not shown that the expansion of the Cove Point LNG terminal will result in gas quality any different from that which it has already settled upon as acceptable. Nor has it shown why others should be responsible for upgrades to its system it believes are necessary simply for the purpose of receiving gas that meets existing tariff standards.”¹⁵

The January 4 Order then confirmed the June 16 Order's findings that regasified LNG would not have caused an increase in leak rates on WGL's system if the sealing ability of WGL's couplings had not been compromised by hot tar, age, temperature and pressure.

10. The January 4 Order also addressed WGL's and Public Service Commission of the State of Maryland's rehearing arguments that the Commission should not have authorized the Cove Point Expansion Project without first resolving the concerns of WGL regarding the increased gas leaks which it alleged would be experienced on its system as a result of the increased amounts of regasified LNG to be delivered by the expansion project. WGL claimed that the Commission's statutory obligation under the NGA to protect the public interest mandates that approval of the Cove Point's LNG Terminal Expansion include conditions to ensure against increased leaks.

¹⁵ 118 FERC ¶ 61,007 at P 20.

11. The Commission rejected these arguments, concluding that Cove Point LNG's expansion project could be approved consistent with the public interest because there was no record scientific evidence that regasified LNG presents safety issues in a properly maintained gas distribution system. Furthermore, the Commission found that the compromised seals on WGL's system could be remedied before the expansion project is placed in service. On this point, the Commission noted that WGL had acknowledged that it had already begun to address the safety concerns it perceived were associated with the Cove Point LNG Terminal's existing capacity. Specifically, WGL stated that in order to control the increase in leaks it had experienced, it had reduced operating pressures in Prince George's County, requested construction of a new tap on a Transcontinental Gas Pipe Line Corporation line to minimize deliveries of unblended LNG, and had begun replacing facilities in the affected area. WGL's estimated completion date of this effort was by the end of 2007, whereas the projected in-service date for Cove Point LNG's expansion facilities is not until the fall of 2008. Thus, the Commission stated that there was time for WGL to complete needed corrective measures on its system so that it can safely accommodate regasified LNG.

12. On the issue of safety, the January 4 Order also explained the Commission's "balanced approach"¹⁶ of ensuring a safe and reliable gas grid while at the same time providing the flexibility required to accommodate the expected increases in LNG imports, by allowing pipelines with existing, adequate tariff provisions regarding gas quality and interchangeability to continue to rely on those tariff provisions.¹⁷ As the January 4 Order recognized, the gas to be received by WGL following commencement of service of the Cove Point Expansion Project will continue to meet the gas quality standards in Cove Point LNG's tariff provisions implemented pursuant to its October 2002 settlement agreement with WGL and the LTD-1 Shippers.

13. In its request for rehearing of the June 16 Order, KeySpan stated that that order did not address concerns raised by WGL and other parties, including KeySpan, about the possible adverse effects of expanded deliveries of imported LNG on various end-users who had not previously received it. According to KeySpan, the Commission's failure to address these concerns conflicts with the Policy Statement's recognition that changes in gas composition could have adverse impacts on existing end-use applications. KeySpan pointed to findings in the NGC+ Interchangeability White Paper¹⁸ that varying gas

¹⁶ *Id.* at P 20; *see also*, 115 FERC ¶ 61,337 at P 50.

¹⁷ *Id.*; *see also* Policy Statement, 115 FERC ¶ 61,325 at P 34, 37.

¹⁸ National Gas Council, *Natural Gas Interchangeability and Non-Combustion End Use* (filed in Docket No. PL04-3-000 on February 28, 2005, refiled on March 3, 2005, and resubmitted with appendices on June 30, 2005).

compositions can negatively impact various applications, including chemical and manufacturing processes, fuel cells and LNG peak shaving liquefaction plants, and that “[m]ost pipeline tariffs do not contain adequate specifications to define or set interchangeability limits.”¹⁹ Specifically, KeySpan asserted that the Commission assumed away the issue of possible adverse effects on end-users, determining instead that because Cove Point LNG supplies meet the gas quality standards of Cove Point LNG, Dominion and the other pipelines that will receive it, such supplies will not adversely impact existing customers.

14. Consequently, KeySpan insisted that the Commission should require Cove Point LNG and Dominion “(1) . . . to analyze, assess and identify the changes in the composition of gas that the applicants will deliver as a result of the expansion, the geographical area that will receive the increased deliveries of such gas, and the adverse impacts on end use applications that are likely to be experienced as a result of such deliveries, and (2) condition the certificates issued in this proceeding on the agreement of the applicants to mitigate any adverse impacts on third parties that may arise as a result of changes in the gas composition arising from the expansion of the Cove Point facility.”²⁰

15. The January 4 Order explained, in denying KeySpan’s rehearing request, that, as stated in the Policy Statement, pipelines such as Cove Point LNG and Dominion, with existing tariff provisions which adequately characterize interchangeability limits, may continue to rely on their existing tariff, and that “to the extent a complaint is filed alleging an existing pipeline tariff is not just and reasonable, the Commission will evaluate the complaint on its specific merits.” With that point in mind, the Commission stated in the January 4 Order that KeySpan’s rehearing request failed to provide specific allegations so as to warrant further consideration by the Commission.

Requests for Rehearing of the January 4 Order

16. As noted above, rehearing of an order denying rehearing does not lie. Maryland Peoples’ Counsel and KeySpan contend, nonetheless, that the Commission should grant their respective rehearing requests. Maryland Peoples’ Counsel asserts that the January 4 Order significantly modified its June 16 Order in two respects. First, Maryland Peoples’ Counsel claims that the January 4 Order directed that WGL “immediately” take corrective actions to mitigate any future gas leak problems as a result of the increased receipt of regasified LNG. Second, according to Maryland Peoples’ Counsel, the

¹⁹ See KeySpan’s request for rehearing of the June 16 Order at p.6, *citing* the NGC+ Interchangeability White Paper at section 8.0 at p. 17, Finding No. 2.

²⁰ *Id.* at p.1.

Commission modified in the January 4 Order its assessment of costs to ensure the safety of WGL's system.

17. KeySpan, on the other hand, claims that the Commission mischaracterized its pleadings when it denied KeySpan's request for rehearing of the June 16 Order because "KeySpan raises no specific concerns." KeySpan also requests that the Commission reconsider its statement in the January 4 Order that "to require the type of examination that KeySpan seeks would impede rather than encourage the development of natural gas infrastructure and the movement of gas to the grid and to the ultimate consumers."²¹

18. Dominion filed an answer to the requests for rehearing, claiming that the rehearing requests were barred because the January 4 Order did not change the result of the June 16 Order, and that the issues raised in the present rehearing requests were already addressed in the January 4 Order. Dominion contends that this is particularly true in the case of KeySpan, whose arguments and conclusions in the present request mirror those of the prior request. Dominion also objects to Maryland Peoples' Counsel's attempt to introduce new evidence at this late stage in the proceeding.²²

Discussion

Maryland Peoples Counsel's Request for Rehearing

19. As Maryland Peoples' Counsel reads the January 4 Order, the Commission directed WGL to "fix" its system so that regasified LNG will flow safely from the Cove Point Pipeline into WGL's system. Moreover, according to Maryland Peoples' Counsel, the Commission directed WGL to complete the repair process before the fall of 2008, when the Cove Point Expansion Project is scheduled to come into service. Maryland Peoples' Counsel's first asserts that the January 4 Order lacks any technical or engineering analysis of when or where leaks may occur in the future, or how WGL is to take corrective action to ensure that its system safely can receive increased volumes of regasified LNG by the fall of 2008. Consequently, Maryland Peoples' Counsel claims that the record in this proceeding provides very little information on how to best protect WGL's system against future safety threats. Maryland Peoples' Counsel states that this is particularly worrisome because WGL appears to be unable to take effective action without expert guidance from the Commission. To support its rehearing request,

²¹ 118 FERC ¶ 61,007 at P 109.

²² Dominion also responded to the substance of KeySpan's and Maryland Peoples' Counsel's rehearing requests. However, as we are dismissing their rehearing requests, it is unnecessary to summarize Dominion's substantive answer.

Maryland Peoples' Counsel submits evidence largely comprised of WGL's data responses and rebuttal testimony filed in an evidentiary hearing before the Maryland Public Service Commission in Case No. 9035.²³

20. Maryland Peoples' Counsel's second concern involves the need to protect WGL's ratepayers from the costs of such remedial measures. Maryland Peoples' Counsel claims that the January 4 Order's failure to protect WGL's ratepayers from the costs of remedying WGL's system stands in conflict with Commission precedent. Maryland Peoples' Counsel argues that under established Commission policy, those parties responsible for causing damage to or degradation of service should bear the financial burden associated with necessary remedial action. On this point, Maryland Peoples' Counsel contends that the Commission misapplied and misinterpreted the two prior cases WGL cited regarding the introduction of regasified LNG from Cove Point LNG's facilities into the pipeline system without undertaking any modification or adjustment. Maryland Peoples' Counsel attributes the Commission's abandonment of established precedent that the party causing a degradation in service should pay for all the costs caused by its actions on the "flimsy excuse" that whereas the prior cases were decided at the time of bundled transactions, the present situation arises in an unbundled marketplace. Maryland Peoples' Counsel also claims that while not factually similar, the principles of *MPC v. FERC* that a proposal is improper if "it would harm rather than help precisely those customers – the ones vulnerable to pipeline monopoly power – which it was the purpose of the NGA to protect"²⁴ have application here.

21. Maryland Peoples' Counsel misreads the January 4 Order with respect to Maryland Peoples' Counsel's assertion that the January 4 Order directed WGL to take any corrective action to prepare its system for the increased volumes of regasified LNG that will be delivered to its system as a result of the Cove Point Expansion Project, much less that it be done within a certain time. Although the January 4 Order does make several references to WGL's mitigation measures, they were in every instance merely descriptive references, and not directions that WGL fix its system.²⁵ Indeed, section 1(b)

²³ Case No. 9035 before the Maryland Public Service Commission arose as a result of WGL's filing for approval of revised tariff sheets to recover from its delivery service customers the costs of hexane injection to address existing, or prevent additional, leaks on its system.

²⁴ *MPC v. FERC*, 761 F.2d 768, 779 (1985).

²⁵ See, e.g., January 4 Order at P 29 (noting that WGL was already engaged in mitigation measures to control the increase in leaks and to address alleged safety concerns on its system associated with the Cove Point LNG Terminal's existing capacity, and that WGL has time to complete any remaining needed corrective measures), P 30

(continued....)

of the NGA establishes the Commission's primary jurisdiction, and as there established, it is not within the Commission's NGA jurisdiction to require WGL, a local distribution company, to identify and correct problems and equipment on its system.²⁶

22. Similarly, the Commission has no jurisdiction to dictate the rate treatment accorded any costs WGL incurs modifying its system in anticipation of commencement of service of the Cove Point Expansion Project. Such matters are within the purview of the Maryland Public Service Commission.²⁷

23. In any event, the January 4 Order did not modify in any way the result reached in the June 16 Order on the issues raised in Maryland Peoples' Counsel's request for rehearing. Maryland Peoples' Counsel should have sought rehearing of the June 16 Order to address these concerns, just as WGL sought rehearing of the June 16 Order.²⁸

(observing that the safety issues raised in this proceeding will be resolved by WGL's repair or replacement of its defective couplings), P 64(stating a belief WGL's decision to leave the compromised couplings in place on their system is the genesis of WGL's leak problem), and P 95(noting that WGL's effort to eliminate leaks by introducing additional C5+ through installing a hexane plant has not been shown to be successful).

²⁶ Section 1(b) of the NGA states:

The provisions of this Act shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural-gas companies engaged in such transportation or sale, and to the importation or exportation of natural gas in foreign commerce and to persons engaged in such importation or exportation, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas.

²⁷ *See in accord AES Ocean Express LLC v. Florida Gas Transmission Company*, 119 FERC ¶ 61,075, at P 274-294 (2007).

²⁸ *See, e.g.*, WGL's request for rehearing of the June 16 Order at pp. 3, 4, 42-45.

KeySpan's Request for Rehearing

24. KeySpan states that the Commission should have required Cove Point LNG and Dominion to analyze, assess and identify the changes in the composition of gas that will be delivered as a result of the expansion and the impact of such changes on all end use applications likely to be affected. This, KeySpan contends, must be done before service commences to ensure public safety and service reliability, as well as to avoid damage to infrastructure and end-use equipment. In addition, KeySpan states that the Commission should have imposed certificate conditions requiring the applicants "to mitigate any adverse impacts on third parties that might arise as a result of changes in the gas composition arising from the expansion of the Cove Point facility."²⁹

25. In support of its contention that the Commission mischaracterized its pleadings by claiming that KeySpan raised no specific concerns, KeySpan identifies as "specific" concerns: (a) Con Edison's concern that as the NGC+ White Paper found, additional large volumes of LNG into the national pipeline system could adversely affect a range of equipment, including low emissions gas turbines, industrial equipment using natural gas as feedstock, and LNG peakshaving facilities;³⁰ (b) Con Ed's concern that a significant increase in inert gases above historical levels will require Con Ed to retrofit its LNG peakshaving facility, at a cost of several million dollars, unless Dominion amends its tariff to meet the design specifications and demonstrated tolerances of Con Ed's peakshaving facility;³¹ and KeySpan's concern that its LNG peakshaving facilities could be similarly affected, thereby severely compromising its ability to meet the peak day requirements of its customers.

26. Also, KeySpan claims that the Commission unfairly stated in the January 4 Order that "to require the type of examination that KeySpan seeks would impede rather than encourage the development of national gas infrastructure and the movement of gas to the grid and to the ultimate consumers."³² KeySpan claims that in fact it supports the development of natural gas infrastructure, including increased LNG supply options, so long as they can be delivered safely and reliably. However, according to KeySpan, reliability is the cornerstone of the natural gas industry, and since there is no question that

²⁹ KeySpan's request for rehearing of the January 4 Order, at p. 1, mirrors its request for rehearing of the June 16 Order, at p. 1.

³⁰ Con Ed's May 27, 2005 motion to intervene and limited protest in Docket No. CP05-131-000 at 3.

³¹ *Id.* at 3, n. 1.

³² January 4 Order, at P 109.

the reliability of end-use applications can be adversely affected by changes in the composition of natural gas, the Commission should have required the measures urged by KeySpan in order to ensure safe and reliable delivery of natural gas.

27. Finally, KeySpan claims that the Commission erred in finding that low C5+ Canadian gas was “clearly” not the sole cause of increased leaks on LILCO’s system that occurred during the 1990s.³³ KeySpan asserts that the Commission’s finding on this issue is supported only by unsworn, self-serving testimony, thereby violating KeySpan’s due process rights. KeySpan contends that the Commission should reverse this unsupported factual finding. Instead, claims KeySpan, the LILCO³⁴ experience justifies requiring the pipeline applicants in this proceeding to conduct the analyses requested by KeySpan on the end-use applications.

28. We disagree with KeySpan’s claims that it has raised specific concerns that warranted the end-use impact analysis it requests, and that we unfairly characterized their request for a system-wide, end-use adverse impact study as an impediment to the development of national gas infrastructure. Our denial of their request for rehearing of the June 16 Order was fully consistent with our Policy Statement. On one hand, the Policy Statement recognizes that, as KeySpan asserts, the addition of large volumes of LNG into the national pipeline system could indeed adversely affect a range of end-use applications. On the other hand, in determining to adopt a “balanced approach”³⁵ policy of ensuring a safe and reliable gas grid while at the same time providing the flexibility required to accommodate the expected increases in LNG imports, we announced that pipelines with existing, adequate tariff provisions regarding gas quality and interchangeability may continue to rely on those tariff provisions.³⁶ We noted however, that we would evaluate on its specific merits a complaint alleging that an existing pipeline tariff is not just and reasonable.³⁷

29. KeySpan’s speculative and declarative statements, without analytical support, are insufficient to demonstrate that regasified LNG from the Cove Point LNG facilities that meets the currently effective interchangeability standards will cause problems for end-

³³ *Id.*, at P 104.

³⁴ LILCO, or Long Island Lighting Company, is a predecessor to KeySpan.

³⁵ *Id.*, at P 109.

³⁶ *Id.*, at PP 34, 37.

³⁷ *Id.*, at footnotes 30, 33.

users, or to support a finding that the applicants' existing tariffs are no longer just and reasonable.

30. Moreover, as the January 4 Order points out, “[w]e recently explained that our policy in addressing gas quality and interchangeability controversies is guided by our recognition of ‘the importance of encouraging rather than impeding the development of natural gas infrastructure and the movement of gas to the grid and to the ultimate consumers.’”³⁸ In failing to provide specific allegations that the applicants' tariffs were unjust and unreasonable, but rather, seeking to impose on the applicants the burden of re-demonstrating that their existing tariffs remained just and reasonable to all who might receive increased deliveries of LNG,³⁹ the Commission rightly deemed that to grant KeySpan's request would “impede rather than encourage the development of natural gas infrastructure and the movement of gas to the grid and to ultimate consumers.”⁴⁰

31. Finally, while we disagree with KeySpan's arguments challenging our conclusions in the January 4 Order regarding the LILCO experience, those arguments are properly the subject of a petition for judicial review of the January 4 Order. We note, however, that the “LILCO experience” involved the question of whether the introduction of low C5+ Canadian gas caused leaks in couplings on LILCO's system. Thus, the LILCO experience did not involve the issue of potential adverse impact on end-use applications and would have little relevance to KeySpan's argument that the pipeline applicants in this proceeding should be required to conduct the analyses requested by KeySpan on the end-use applications.

32. Based on the discussion above, we dismiss Maryland Peoples' Counsel's request for rehearing and KeySpan's second rehearing request as rehearing of our rulings denying rehearing does not lie. Any other result would lead to never-ending litigation as every response by the Commission to a party's arguments would allow yet another opportunity for rehearing unless presumably that response were word-for-word identical to what the Commission earlier said.⁴¹ As the District of Columbia Circuit has put it, even “an

³⁸ 118 FERC 61,007 (2006) at P 28, *citing* 15 FERC ¶ 61,325 at P 24.

³⁹ We note that according to documents on file with the Commission, KeySpan's service area is approximately 60 miles to the south and east of the terminus of Dominion's system in Troy and Albany Counties, New York.

⁴⁰ January 4 Order, at P 109.

⁴¹ *Accord, e.g., Canadian Association of Petroleum Producers v. FERC*, 254 F.3d 289, 296 (D.C. Cir. 2001) (rejecting the notion of “infinite regress” that would “serve no useful end”).

improved rationale” would not justify a further request for rehearing.⁴² The January 4 Order denied rehearing and affirmed the finding of the June 16 Order on all issues relevant to KeySpan’s and Maryland Peoples’ Counsel’s instant rehearing requests.

The Commission orders:

KeySpan’s and Maryland People’s Counsel’s requests for rehearing of the Commission’s January 4 Order are hereby dismissed.

By the Commission.

(S E A L)

Kimberly D. Bose,
Secretary.

⁴² See *Londonderry Neighborhood Coalition v. FERC*, 273 F.3d 416, 423-24 (1st Cir. 2001); *Southern Natural Gas Co. v. FERC*, 877 F.2d 1066, 1073 (D.C. Cir. 1999) (*Southern*) (citing *Tennessee Gas Pipeline Co. v. FERC*, 871 F.2d 1099, 1109-10 (D.C. Cir. 1988)).